

Kevin P. Rooney, #107554  
Of Counsel, HAMMERSCHMIDT LAW CORPORATION  
2445 Capitol Street, Suite 215  
Fresno, CA 93721  
Tel: (559) 233-5333  
Fax: (559) 485-3852

Attorney for Defendant, MARTIN PHILLIP AVILA

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Case No.: 1:25-CR-00040-KES-BAM
Plaintiff,	)	
vs.	)	WAIVER OF DEFENDANT'S PRESENCE
	)	PURSUANT TO FEDERAL RULE OF
	)	CRIMINAL PROCEDURE 43(b)(3) and
	)	ORDER
MARTIN PHILLIP AVILA,	)	
Defendant	)	

Pursuant to Federal Rule of Criminal Procedure 43(b)(3), the Defendant having been advised of the right to be present at all stages of this criminal case, requests that this Court proceed in Defendant's absence for all proceedings which involve only a conference or hearing on a question of law. Defendant agrees that Defendant's interests shall be represented at all times by the presence of Defendant's attorney the same as if Defendant were personally present and requests that this Court allow Defendant's attorney to represent Defendant's interests at all times when Defendant is absent. Defendant further agrees that an order to the Defendant's attorney that Defendant's presence is required at a particular hearing will be deemed notice to the defendant of the requirement of the Defendant's appearance at court hearing on the date and time ordered to appear.

The Defendant acknowledges that it is Defendant's responsibility to know of all future court dates and to stay in close contact with Defendant's counsel prior to and immediately after Defendant's

1 hearing. Defendant also acknowledges that Defendant must update Defendant's counsel of any change  
2 of address and any change in contact information. Defendant acknowledges that a failure to abide by  
3 any of these requirements may result in this waiver being vacated by the Court.

4 Defendant acknowledges that a failure to appear at a hearing for which the Defendant was  
5 ordered to appear, even if the Defendant's counsel is unable to advise Defendant of the hearing, will  
6 result in the issuance of a warrant for the Defendant's arrest and may result in additional criminal  
7 charges.

8 *I agree to the terms set forth above and agree to be in contact with my attorney and know that*  
9 *a failure to appear by me when ordered to do so, even when not present at the hearing for which I*  
10 *am ordered to appear, may result in a warrant for my arrest. I also acknowledge that counsel will*  
11 *act on my behalf when absent from court proceedings but that I must be present when ordered by*  
12 *the court. I acknowledge that I am entitled to personally appear at any hearing associated with my*  
13 *case if I so choose.*  
14

15  
16 DATED: April 16, 2025

/s/ Martin P. Avila  
MARTIN PHILLIP AVILA

17  
18 I acknowledge the foregoing.

19 DATED: April 15, 2025

/s/ Kevin P. Rooney  
KEVIN P. ROONEY  
Attorney for Defendant,  
MARTIN PHILLIP AVILA

20  
21  
22  
23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

**ORDER**

IT IS HEREBY ORDERED that pursuant to Fed. R. Crim P. 43(b)(3), Defendant's appearance is excused from all proceedings which involve only a conference or a hearing on a question of law in this case until ordered to appear. Defendant is ORDERED to update Defendant's counsel of any change of Defendant's address and any change in contact information.

IT IS SO ORDERED.

Dated: April 17, 2025

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE